

FRED A. FLANDERS

OCTOBER 28 (legislative day, OCTOBER 25), 1943.—Ordered to be printed

Mr. ROBERTSON, from the Committee on Claims, submitted the following

REPORT

[To accompany H. R. 1144]

The Committee on Claims, to whom was referred the bill (H. R. 1144) for the relief of Fred A. Flanders, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

The facts will be found fully set forth in House Report No. 712, Seventy-eighth Congress, first session, which is appended hereto and made a part of this report, and your committee concur in the recommendations of the House.

[H. Rept. No. 712, 78th Cong., 1st sess.]

The Committee on Claims, to whom was referred the bill (H. R. 1144) for the relief of Fred A. Flanders, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Line 3, after the enacting clause, strike out the remainder of the bill and, in lieu thereof, insert—

“That the Comptroller General of the United States is hereby authorized and directed to cancel the indebtedness of Fred A. Flanders, in the amount of \$590.55, arising out of the fact that for the period from November 1, 1930, to March 31, 1941, he was paid for services rendered by him as surveyman or inspector in the United States Engineer office at Clewiston, Florida, and also as cooperative weather observer at Moore Haven, Florida, for the Department of Commerce, the payment of such dual compensation being in contravention of the provisions of section 6 of the Act of May 10, 1916, as amended by the Act of August 29, 1916 (39 Stat. 582, U. S. C., title 5, sec. 58).”

The purpose of the proposed legislation is to authorize the Comptroller General of the United States to cancel the indebtedness of Fred A. Flanders, in the amount of \$590.55 arising out of the fact that for the period from November 1, 1930, to March 31, 1941, he was paid for services rendered by him as surveyman or inspector in the United States Engineer office at Clewiston, Fla., and also as cooperative weather observer at Moore Haven, Fla., for the Department of Commerce.

STATEMENT OF FACTS

It appears that the Weather Bureau, Department of Commerce, paid Mr. Flanders the sum of \$590.55 over the period from November 1, 1930, to March 31, 1941, at the rate of \$55 per annum for the performance of services as a cooperative weather observer at Moore Haven, Fla. On November 1, 1930, Mr. Flanders, was appointed surveyman in the United States Engineer office at Clewiston, Fla., with compensation of \$2,200 per annum. He was afterward promoted to inspector, with an increase of salary to \$2,400 per annum, and continued in that status until October 1, 1941. Both salaries combined amounted in excess of \$2,000 per annum, contrary to the provisions of the act of May 10, 1916 (39 Stat. 120), as amended by the act of August 29, 1916. Mr. Flanders has been called upon to refund the amount paid him by the Department of Commerce.

The War Department and also the Department of Commerce feel that Mr. Flanders should be relieved of the amount set forth in the bill; that dual payment although contrary to law, was made inadvertently, through administrative error, and was not due to any intentional concealment of fact on the part of Mr. Flanders or other employees of the Weather Bureau.

Therefore, your committee recommend favorable consideration to the proposed legislation and append hereto reports of the War and Commerce Departments, together with other pertinent evidence.

WAR DEPARTMENT,
Washington, D. C., June 19, 1943.

Hon. DAN R. McGEHEE,
*Chairman, Committee on Claims,
House of Representatives.*

DEAR MR. McGEHEE: The War Department favors the enactment of H. R. 1144 (78th Cong.), which provides that "notwithstanding the provisions of the Dual Compensation Act of May 10, 1916 (39 Stat. 120), as amended by the Act of August 29, 1916 (39 Stat. 582), Fred A. Flanders, an employee of the War Department under the United States Engineer suboffice at Clewiston, Fla., be authorized to accept and retain \$590.55 heretofore paid him as salary by the United States Weather Bureau, for the period November 1, 1930, to March 31, 1941."

It appears that the Weather Bureau, Department of Commerce, paid Mr. Flanders the sum of \$590.55 over the period November, 1 1930, to March 31, 1941, at the rate of \$55 per annum, for the performance of services as a cooperative weather observer at Moore Haven, Fla. On November 1, 1930, Mr. Flanders was appointed surveyman in the United States Engineer office at Clewiston, Fla., with compensation of \$2,200 per annum. He was promoted to inspector, with an increase to \$2,400 per annum, effective August 1, 1931, and continued in that status until October 1, 1941. Payment of both salaries, the combined amount of which exceeded \$2,000 per annum, was contrary to the provisions of the act of May 10, 1916 (39 Stat. 120), as amended by the act of August 29, 1916 (39 Stat. 582).

The duties performed by Mr. Flanders for the Weather Bureau consisted of the daily reading of meteorological instruments and the compilation of local weather reports. The work was done in his spare time and did not interfere with his duties as an employee of the War Department. The records indicate that Mr. Flanders rendered conscientious and valuable services to the Weather Bureau. He states that to now refund the sum of \$590.55 to the Government would work a hardship upon him and his family. He further asserts that when the Frost Control Service was installed, he volunteered to assume the additional duties without compensation.

The services appear to have been rendered by Mr. Flanders in good faith and, in view of the relatively small amount of compensation paid, the War Department feels that he should not be required to refund the amount of such payments.

The facts are analogous to those involved in Private Law 45 (78th Cong.) approved May 27, 1943, and Private Law 86 (73d Cong.), approved May 3, 1934 (48 Stat. 1929), which concerned violations of the statute referred to, and are similar to those involved in Private Law 525 (77th Cong.), approved December 1, 1942, which concerned a violation of the restriction against payment of salary by the United States to a person receiving a civil-service retirement annuity.

In connection with H. R. 5720 (72d Cong.), reintroduced as H. R. 520 (73d Cong.), which subsequently became Private Law 86 (73d Cong.), supra, the

Comptroller General of the United States furnished a suggested text for a bill in cases of this type. (See p. 2, H. Rept. No. 462, 73d Cong.). In order that the views of the Comptroller General may be observed, it is recommended that the bill be amended to read:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Comptroller General of the United States is hereby authorized and directed to cancel the indebtedness of Fred A. Flanders in the amount of \$590.55 arising out of the fact that for the period from November 1, 1930, to March 31, 1941, he was paid for services rendered by him as surveyman or inspector in the United States Engineer office at Clewiston, Florida, and also as cooperative weather observer at Moore Haven, Florida, for the Department of Commerce, the payment of such dual compensation being in contravention of the provisions of section 6 of the Act of May 10, 1916, as amended by the Act of August 29, 1916 (39 Stat. 582, U. S. C., title 5, sec. 58)."

The fiscal effect of the bill is manifest.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

HENRY L. STIMSON,
Secretary of War.

[Stat. L., 75th Cong., 1st sess., ch. 893, p. 1104]

AN ACT For the relief of Elva I. Shuey

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Elva I. Shuey, an employee of the Bureau of Mines, Department of the Interior, is hereby relieved from any liability to the United States by reason of being employed in two positions, that of teacher in the District of Columbia schools, and as clerk in the executive branch of the Government during the period January 13, 1919, to March 15, and on September 16, 1920, and June 30, 1924. The Acting Comptroller General of the United States has certified that the sum of \$192.50 is due the United States from the said Elva I. Shuey, under the statute relating to the receiving more than one salary.

Approved, August 31, 1937.

[Stat. L., 75th Cong., 2d sess., vol. 52, p. 1282]

AN ACT For the relief of G. F. Flanders and J. W. Talbert

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Comptroller General of the United States be, and he is hereby, authorized and directed to credit the account of G. F. Flanders, former United States marshal for the southern district of Georgia, in the amount of \$87.50, being the amount paid by him to J. W. Talbert for stenographic service in reporting the testimony in the case of the United States against Frank Debbs Ware in July 1933, said sum having been disallowed as compensation in excess of the amount allowed by the act of May 10, 1916 (39 Stat. 120).

Approved, April 14, 1938.

[Stat. L., H. R. 3442, 70th Cong., vol. 45]

AN ACT For the relief of Clifford J. Sanghove

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Comptroller General of the United States is authorized and directed to cancel the claim of the United States against Clifford J. Sanghove, lieutenant, United States Naval Reserve Force, retired, in the sum of \$1,047.46 erroneously paid to him.

Approved, May 14, 1928.

[Stat. L., 71st Cong., vol. 46, p. 1931]

AN ACT For the relief of Maude L. Duborg

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Maude L. Duborg, a civil-service employee of the Government, and performing the duties of a stenographer-typist at Fort

Humphreys, Virginia, is hereby relieved from accounting for or repaying to the Government the sum of \$190.66 paid to her, namely: \$31.76 in January 1927; \$36.15 in May 1927; \$32.06, July 1927; \$27.64 in September 1927; and \$63.05 in October 1927, by or under the direction of the Finance Officer of the War Department, as a compensation for reporting the testimony in certain cases of general court martial at Fort Humphreys, said work having been done by her at the request of the trial judge advocates of the several courts martial, after office hours and while she was on a leave of absence without pay.

Approved, June 27, 1930.

[Stat. L., 74th Cong., vol. 49, p. 2296]

AN ACT For the relief of Maizee Hamley

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Comptroller General of the United States be, and he is authorized and directed to allow credit to Maizee Hamley, staff nurse in the Kiowa Agency, Anadarko, Okla., for the amount of \$946.70 received as dual compensation for the period July 1, 1928, to September 30, 1932, while employed as a nurse and postmistress at Havasupai Agency, Supai, Ariz., in contravention of the act of May 10, 1916, as amended (39 Stat. 120, 582), which prohibits payment of more than one salary when the combined amounts of such salaries exceed the rate of \$2,000 per annum.

Approved, May 15, 1936.

[S. Doc. No. 261, 76th Cong., 3d sess.]

To the Senate:

I return herewith, without my approval, S. 3769, Seventy-sixth Congress, third session, entitled "An act for the relief of Jerry McKinley Thompson."

This enactment would release Mr. Thompson from any liability to the United States incurred by reason of the receipt by him of dual compensation from the Post Office Department and the Navy Department during the period from June 16 to September 15, of each year from 1929 to 1937, inclusive, in contravention of section 6 of the act of May 10, 1916, as amended.

Information regarding the provisions of the act of May 10, 1916, has been repeatedly disseminated throughout the Postal Service by the published bulletins of that Service, and it is my opinion that the granting of the relief here sought would not only encourage the presentation of claims for similar relief, but would also tend to induce a future disregard of this and other laws enacted for the purpose of limiting and restricting the expenditure of public funds. Moreover, the claims of many other Government employees for dual compensation have been denied, and the granting of the relief contemplated by this enactment would, accordingly, represent, it seems to me, discriminatory action of a wholly unwarranted character.

I do not, therefore, feel justified in approving the enactment.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, July 16, 1940.

DEPARTMENT OF COMMERCE,
OFFICE OF THE SECRETARY,
Washington, January 20, 1943.

HON. DAN R. MCGEEHEE,

Chairman, Committee on Claims, House of Representatives,

Washington, D. C.

MY DEAR MR. CHAIRMAN: In your communication of November 30, 1942, you referred to the Department H. R. 6764, a bill for the relief of Fred A. Flanders, and requested an expression of opinion respecting the merits of the proposed legislation. This legislation has been introduced in the Seventy-eighth Congress as H. R. 1144.

Fred A. Flanders was appointed, effective May 1, 1925, a special weather observer at Moore Haven, Fla. Mr. Flanders performed part-time duties in his employment from that time until March 31, 1941. The rate of compensation from November 1, 1930, until March 31, 1941, was at the rate of \$11 per month for the months of November to March, inclusive, of each year, and the total

paid him during that period was \$590.55. It was discovered on September 29, 1941, in connection with a new appointment setting forth a proposed change in Mr. Flanders' duties, that he was receiving a compensation of \$2,400 per annum from the United States Corps of Engineers. This fact was confirmed by the Corps of Engineers and it was discovered that Mr. Flanders had been employed by the corps since November 1, 1930, at a salary of \$2,200 per annum and, since August 1, 1931, at a salary of \$2,400 per annum. As the payment to Mr. Flanders for his services as part-time weather observer appeared to be in contravention of the Dual Compensation Act of May 10, 1916 (39 Stat. 120), as amended by the act of August 29, 1916 (39 Stat. 582), the matter was submitted to the Comptroller General. In an opinion, dated January 21, 1942 (B-22870, a copy of which is attached), the Comptroller General held that the payment to Mr. Flanders, for his services as part-time weather observer, from November 1, 1930, to March 31, 1941, was in contravention of the Dual Compensation Act, and ordered restitution to be made in the amount of \$590.55.

The present bill is to permit Mr. Flanders to accept and retain the \$590.55 heretofore paid him for his services as special weather observer. The Department believes that the enactment of H. R. 1144 is justified on the basis of equity. The Weather Bureau has received a full return for the salary heretofore paid Mr. Flanders, covering observational services faithfully performed by him over a period of years. The dual payment, although contrary to law, was made inadvertently, through administrative error, and was not due to any intentional concealment of fact on the part of Mr. Flanders or other employees of the Weather Bureau. Accordingly, the Department recommends favorable consideration of this legislation by the committee.

On January 8, 1943, the Bureau of the Budget advised that while the final adjournment of the Seventy-seventh Congress prevented further consideration by that Congress of H. R. 6764, there would be no objection by that office to the submission by the Department to the Seventy-eighth Congress of a recommendation for the enactment of legislation for the relief of Fred A. Flanders.

Sincerely yours,

WAYNE C. TAYLOR,
Acting Secretary of Commerce.

MOORE HAVEN, FLA., *March 16, 1943.*

Re Fred A. Flanders.

HON. J. HARDIN PETERSON,
*Congressman, First District, Florida,
House of Representatives, Washington, D. C.*

DEAR MR. PETERSON: Your letter in regard to the above matter received and in answer thereto, the following statements set forth the facts in the case as set forth in previous correspondence.

On May 1, 1925, at my request, I was appointed cooperative observer for the Weather Bureau at Moore Haven, Fla., without compensation of any nature and have carried on this work to date without missing a day except for a short period after the 1926 hurricane, when all the equipment was washed away in the flood. Up to November 1, 1930, I was employed by the State of Florida as assistant engineer in charge of work on Lake Okeechobee. When the United States Engineer Department took over the work on November 1, 1930, I made application for employment, passed civil-service examinations, and have been in their employ ever since in various capacities.

Some time during the period (the date of which I do not recall) the Weather Bureau established a frost warning system. I received a request from the Jacksonville office of the Weather Bureau that I continue my work as observer with additional work entailed by the frost warning service, stating that the remuneration for this extra work would be \$55 per year. I accepted it but will state that I would gladly have carried on this work without compensation.

As above stated my change of employment from State to Government was effective November 1930 and my work and records for the Weather Bureau were found valuable to the Engineer Department and I carried on the work for the benefit of both.

That the small salary attached to this work was an infringement on regulations never occurred to me until I received a letter December 9, 1941, from the Weather Bureau that the Comptroller General had ruled that I was indebted to the Government in the amount of \$590.55.

As set forth in previous correspondence my salary since 1930 is a matter of public record and copies are sent to the collector of internal revenue yearly. The War Department and Weather Bureau both were conversant with my work in each department, and that this alleged infringement should be allowed to accumulate to the ruinous sum of nearly \$600 before I was notified seems unfair and unjust and for this reason I requested relief through you.

Briefly, my work for the Weather Bureau carried over the period of my change in employment from one Government department to another. The compensation from the Weather Bureau was received in two payments at widely separated dates and in consequence I gave no thought whatsoever to these small amounts for the 5 months frost-warning service, as the balance of the year I received no compensation whatsoever, although carrying on the work of observer.

I sincerely trust that the Claims Committee will look with favor on my plea for relief. With conditions as they are now and with additional 20 percent withholding taxes to go into effect shortly, approximately 40 percent of my salary will be retained by the Government. If this additional burden is placed on me I will be practically bankrupt.

I hereby swear that the foregoing statement is true and correct to the best of my knowledge and belief.

FRED A. FLANDERS.

Sworn to before me this date, March 16, 1943.

[SEAL]

D. S. WEEKS,
Clerk Circuit Court, Glades County, Fla.

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